

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CR-80144-SMITH/MAYNARD(s)

UNITED STATES OF AMERICA

v.

JOFF STENN WROY PHILOSSAINT,

Defendant.

FACTUAL PROFFER

The United States Attorney's Office for the Southern District of Florida ("this Office") and the defendant, Joff Stenn Wroy Philossaint, agree that the following statement of facts is accurate and provides a factual basis for the defendant's plea of guilty. All facts were true at all times relevant to the offense conduct unless a more specific date or time is specified. The defendant understands that the government may present evidence at future proceedings that his criminal conduct was more extensive than is described in this proffer.

1. Paragraphs 1-9 of the General Allegations of the Superseding Indictment accurately describe the Payroll Protection Program ("PPP") and the Economic Injury Disaster Loan ("EIDL") program. They are incorporated into this statement of facts as if fully set forth herein.

General Summary of Offense Conduct

2. Beginning no later than in or around May or June 2020 and continuing through no earlier than in or around June 2021, Philossaint assisted numerous conspirators to submit fraudulent applications for PPP loans and EIDLs on behalf of businesses owned and controlled by the conspirators. At first, Philossaint carried out this scheme while working for Company 1, which

was operated by Conspirator 1. Later, Philossaint began working for himself and carrying out the same scheme.

3. Philossaint prepared loan applications for the conspirator business owners and caused the applications to be sent to his conspirators to digitally sign and electronically submit to various financial institutions and the Small Business Administration ("SBA"). The applications contained material misrepresentations about the businesses, such as substantial overstatements of the businesses' gross revenues, number of employees, and average monthly payroll. Based on these fraudulent applications, various private financial institutions and SBA loaned money, generally hundreds of thousands of dollars, to the conspirators' businesses. Philossaint later prepared applications on behalf of the conspirator businesses for forgiveness of the PPP loans. These applications falsely stated that the businesses had met the preconditions of loan forgiveness by using the loans to pay payroll and/or for other permissible expenses.

4. Automatic Data Processing, Inc. ("ADP") provided payroll and other services to businesses. Conspirator 1 and/or Philossaint opened ADP accounts on behalf of their conspirators, with themselves (Conspirator 1 or Philossaint) as the account administrators. They caused ADP to make payments purportedly for payroll to individuals with the loan proceeds, although these individuals either did not work for the loan recipients or were not entitled to payroll in the amounts paid. Philossaint attempted to obtain and use ADP records to support the applications for loan forgiveness.

5. Brianna Monique Gayle had previously worked for ADP. During the conspiracy, she worked as an assistant to Philossaint. Records obtained from ADP showed that Gayle, while working

for Philossaint, contacted ADP on multiple occasions between May 2021 and April 2022. Gayle contacted ADP to manage payroll accounts enrolled by EIVC, such as adding or removing accounts.

6. Gayle also contacted ADP to retrieve payroll documents and W-2's for the payroll accounts. Gayle called ADP on January 26, 2022, and conferenced Philossaint into the call. They stated that their entire client list should have been terminated as going out of business and therefore should have received W-2's for 2021. Gayle continued to make calls to ADP on behalf of the companies enrolled by EIVC to obtain W-2's.

7. Shortly after the conspirator business owners received their loan proceeds, they paid either Conspirator 1 or Philossaint a fee of approximately 10% of the value of the loans. In many cases, the fee was paid to shell companies that Philossaint controlled, which did no true business, or inaccurate notations were made on the checks or other instruments of payment. These payments were made from and to financial institutions, that is, banks the deposits of which were insured by the Federal Deposit Insurance Corporation.

8. Philossaint assisted codefendants and conspirators to apply for fraudulent loans and applied for such loans himself. The conspirators applied on behalf of: Gayle, applying as a sole proprietor; Cinda Foundation Inc; DDZ Family Enterprises LLC; Ferro's Entertainment and Production LLC; JREAM Vision TV LLC; One Solution Group LLC; Royal Elite Trans, LLC; Sunrise City Construction Development LLC; Unfold Perception, LLC; and other businesses. Based on these applications, lenders and SBA paid at least \$2,020,328.17 in loans to which the conspirators were not entitled. The conspirators who received these loans paid Philossaint approximately 10% of the value of the loans.

9. The fraudulent PPP loan and EIDL applications involved in the scheme were submitted electronically to servers located outside Florida. Philossaint, Tollinchi, Rene, Gayle, Shazier, Johnson, and most of the other conspirators resided and worked in the Southern District of Florida and submitted their applications from this district.

Unfold Perception, LLC

10. The applications for PPP loans submitted by Unfold Perception, LLC are a representative example of the scheme and conspiracy. Unfold was a Florida limited liability company. It was organized on May 28, 2019. Rene was the sole managing member. Unfold's principal place of business was in West Palm Beach, Florida.

11. On June 18, 2020, Unfold applied for a PPP loan. The loan application was digitally signed by Rene. The application was electronically transmitted to Celtic Bank's servers, which were located in Utah. The application stated that Unfold had three employees and average monthly payroll of \$32,781.66. For the twelve months preceding this application, records of Unfold's bank account reveal that the company had gross revenue of approximately \$10,000 and no payroll. A copy of an IRS Form 941 (Employer's Quarterly Tax Returns) was submitted with the application. This form appeared to corroborate the payroll figure on the application. However, Unfold did not submit the form to the IRS. Based on this application, on June 22, 2020, Celtic Bank transferred a PPP loan to Unfold's Wells Fargo bank account in the amount of \$81,954.

12. Trust Alliance Enterprises Inc. ("Trust") was a Florida corporation. It was incorporated on June 15, 2020. Conspirator 1 was the sole officer. On June 25, 2020, Rene signed a check from the Unfold bank account made out to Trust in the amount of \$10,654.02.

13. On June 30, 2020, eight-days after Unfold received its PPP loan, a payroll account was created at ADP for Unfold. Conspirator 1 was the primary contact. From July through December 2020, using proceeds of the PPP loan, Unfold paid \$49,172.24 in payments purportedly for payroll via ADP, including \$29,999.97 to Rene.

14. On February 22, 2021, Unfold applied for a second PPP loan. The application was electronically transmitted to Celtic Bank's servers, which were located in Utah. The application stated that Unfold had three employees and average monthly payroll of \$32,781. For the twelve months preceding this application, Unfold had gross revenue of approximately \$24,000 (not including PPP and EIDL funds) and payroll of approximately \$2,300 (not including the ADP payments). A copy of the same IRS Form 941 that had accompanied Unfold's previous application, which had not been submitted to the IRS, was submitted with the new application. Based on this application, on February 23, 2021, Celtic Bank transferred a PPP loan to Unfold's Wells Fargo bank account in the amount of \$81,952.

15. Dad Money Investment Group, LLC and Elite International Venture Capital, LLC ("EIVC") were Florida limited liability companies. They were both organized on July 6, 2020. Philossaint was the President of Dad Money. Dad Money was EIVC's sole managing member. The companies principal places of business were two different suites in the same office building in Hallandale Beach, Florida.

16. On March 5, 2021, Rene signed a check from the Unfold Wells Fargo bank account made out to EIVC in the amount of \$5,597—somewhat less than 10% of the amount of Unfold's second PPP loan. In the memo line of the check was written the word "accounting."

17. On May 6, 2021, Unfold opened a new ADP account. Philossaint was the only authorized firm representative listed on the account. From May through August, 2021, using proceeds of the PPP loan, Unfold paid \$49,194.05 in payments purportedly for payroll via ADP, including \$30,044.28 to Rene. The last payment was made on August 25, 2021.

18. On August 6, 2021, Rene sent Philossaint a voice recording over WhatsApp. She stated that she was "wondering when is the last date of the payroll so that way I can call them so they can pause it. Please let me know." On August 18, 2021, Rene wrote to Philossaint by WhatsApp, "Please inform me of when the date payroll ends. I believe it has been six months." Law enforcement agents subsequently recovered these messages from Philossaint's phone.

19. On May 24, 2021, Unfold applied for forgiveness of its first PPP loan. The application claimed that Unfold had three employees at the time of the application and that Unfold had spent \$49,172.24 of the loan on payroll expenses. As a result of Unfold's application, the loan was forgiven.

20. On September 8, 2021, Unfold applied for forgiveness of its second PPP loan. The application claimed that Unfold had three employees at the time of the application and that Unfold had spent \$49,761.07 of the loan on payroll expenses. As a result of Unfold's application, the loan was forgiven.

Royal Elite Trans

21. Royal Elite Trans, LLC was a Florida limited liability company. Philossaint was the sole managing member. Its principal place of business changed several times, but was always in Miami-Dade or Broward County, Florida. Philossaint was the only signatory on Royal Elite Trans's bank accounts.

22. On April 1, 2020, Royal Elite Trans applied for an EIDL. The application was electronically transmitted to the servers of the Small Business Administration ("SBA"), which were located outside of Florida. The application required Royal Elite Trans to describe its "detailed business activity." The application listed "Limosine [sic] & Transportation." SBA initially declined the application, but Philossaint requested reconsideration of that decision and then administratively appealed it, and the loan was granted. On December 16, 2021, Philossaint electronically signed a Loan Authorization and Agreement with SBA. The agreement included the requirement that "[b]orrower will use all the proceeds of this Loan solely as working capital to alleviate economic injury caused by disaster occurring in the month of January 31, 2020 and continuing thereafter." On December 21, 2021, SBA transferred an EIDL to Royal Elite Trans' Bank of America checking account in the amount of \$289,400. Philossaint is the only signatory on this account.

23. Royal Elite Trans had not suffered economic injury in 2020. Royal Elite Trans's bank records indicate that the company's gross revenue increased from \$136,766.93 in 2019 to \$237,755.07 in 2020 (excluding PPP and EIDL funds). The records contain no indications that Royal Elite Trans operated a limousine or similar transportation business and no indications that Royal Elite Trans paid any significant business expenses.

24. An attorney's Interest on Trust Account ("IOTA") is an interest-bearing trust account used by members of the Florida Bar to hold nominal or short-term funds in trust for a client or third party when it would not be feasible to earn income on the funds for the client or third party. The income on the IOTA account benefits charitable causes designated by the Florida Bar. Tollinchi Law, PA was a Florida corporation engaged in the practice of law. The sole officer was Mariel

Tollinchi. Tollinchi was an attorney and was in a romantic relationship with Philossaint. Tollinchi Law maintained an IOTA account at Chase Bank.

25. On December 22, 2021, two checks were written from the Royal Elite Trans account, one to Tollinchi Law for \$34,000 and the other to Tollinchi personally for \$6,573.63. On January 5, 2022, \$26,371.30 was wired from Royal Elite Trans' Bank of America checking account to Tollinchi Law's IOTA account. On January 6, 2022, Tollinchi Law wired the same sum, \$26,371.30, from the same account to an account in the Dominican Republic. The notation associated with the wire read, "Joff Philossaint real estate purchase." On January 20, 2022, the same Royal Elite Trans account wired \$190,000.00 to the same Tollinchi Law IOTA account. On January 25, 2022, Tollinchi Law wired \$200,000 from its IOTA account to an account in the Dominican Republic. The notation associated with the wire included Joff Philossaint's name and the words, "Real estate." Royal Elite Trans's bank records contain no indication that its business involved real estate transactions before it obtained the EIDL.

26. Before the EIDL was deposited into Royal Elite Trans' Bank of America account, the balance in the account was \$2,039.50. Between the time of the deposit of the EIDL and the wire of January 20, 2022, the account received approximately \$31,650 in deposits. Therefore, Royal Elite Trans could not have transferred the funds to Tollinchi described above without the EIDL.

Financial Institutions

27. Wells Fargo, Bank of America, and Chase Bank were financial institutions, that is, banks the deposits of which were insured by the Federal Deposit Insurance Corporation.

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UNITED STATES ATTORNEY

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